

CHURCHILL COUNTY BOARD OF SCHOOL TRUSTEES

Fallon, Nevada

SPECIAL MEETING

April 15, 2015

CALL TO ORDER

President Evans called to order the special meeting of the Churchill County School District Board of Trustees at 6:30 p.m. at the Churchill County School District Administration Office, 690 South Maine Street, Fallon, Nevada.

PLEDGE OF ALLEGIANCE

President Evans led the Pledge of Allegiance.

VERIFICATION OF POSTING OF AGENDA

President Evans confirmed the posting of the agenda.

ROLL CALL

Trustees Present

President Ron Evans

Vice President Clay Hendrix

Trustee Matt Hyde

Trustee Carmen Schank (*via phone*)

Others Present

Dr. Sandra Sheldon

Phyllis Dowd, Director of Business Services

Sharla Hales, Legal Counsel

Debra Shyne, Secretary

(Interested Staff/Community Members per Attached List)

REVIEW AND ADOPTION OF AGENDA

The agenda was adopted under unanimous consent.

PUBLIC COMMENT

Jim Falk, Chairman of the Nevadans for Local Control of Education, commented regarding students opting out of testing. Bob Clifford commented on district wide test examinations.

OLD BUSINESS

- A. For Discussion and Possible Action: Discussion and possible action to uphold or reject protest filed by Mt. Rose Heating and Air Condition in response to Board of Trustees action awarding bid to another bidder for heating and air condition (HVAC) replacement at Churchill Count High School.**

The Board discussed the protest. Ms. Hales stated that she spoke with a representative of Mt. Rose who stated that they could stay on the timeline if the Board chose to proceed this week, but later, it would be questionable. Trustee Schank asked if this project could be delayed or done next year, as she would like it to remain local. Ms. Hales indicated that if the only reason to delay would be to keep the project local, then that would not be an acceptable reason to delay.

Trustee Hendrix made a motion, seconded by Trustee Hyde, to go into a litigation session. The motion passed unanimously.

[The Board met in litigation session from 6:30-6:40.]

Trustee Hendrix stated that he originally made the motion to award the contract to Ferguson Construction and commented that he is highly disappointed that contracts are awarded on all sides of the isle and the one time that the board decides to go a different way, that it causes contention. Trustee Hendrix stated that at this time he has no other choice but to make a motion to **uphold the protest filed by Mt. Rose Heating and Air**, stating that he made the motion reluctantly. Trustee Hyde seconded the motion.

Public Comment:

John Moore stated that he represents Mt. Rose Heating and Air Condition. Mr. Moore stated that Mt. Rose was placed in a position of having to defend itself as low bidder on a project, in the unusual situation that they do not find themselves in very often. Mt. Rose finds it necessary to protest the bid to uphold Nevada's long-standing public laws governing public works and that the public works laws were enacted specifically to secure competition, to save public dollars, and to guard against favoritism and corruption. Mr. Moore provided legal arguments supporting Mt. Rose's position, citing a response from the Nevada Attorney General and requested the Board uphold Mt. Rose's bid protest and award the contract to Mt. Rose. Mr. Moore stated that Mt. Rose's bid complies with the bid instructions.

Ray Ferguson, Ferguson Construction, stated that the bid was advertised with a mandatory pre-bid meeting for prime contractors and mechanical sub-contractors. Mr. Ferguson stated that Mt. Rose named J.W. McCalenahan as their sub-contractor. J.W. McCalenahan did not attend the walk-through; therefore, Mt. Rose Heating did not uphold what was supposed to be done to bid this job.

Ms. Hales stated that there is not an agenda item to discuss whether Mt. Rose's bid was done properly. The motion that is on the table does not encompass that concern, but it might be covered in one of the other agenda items.

The motion passed unanimously.

B. For Discussion and Possible Action: Discussion and possible action to rescind Board of Trustee action taken on April 1, 2015 to award construction contract for the Churchill County High School 2015 HVAC replacement project to Ferguson Construction.

Ms. Hales stated that since the Board upheld the protest, it would make sense to rescind the action taken to award the contract to Ferguson.

Trustee Schank made a motion **to rescind the contract awarded to Ferguson**. Trustee Hendrix seconded the motion. There was no public comment. The motion passed unanimously.

C. For Discussion and Possible Action: Discussion and possible action to approve award for a construction contract to Mr. Rose Heating and Air Conditioning for replacement of HVAC at Churchill County High School in the amount of \$1,360,000.

Ms. Hales stated that there is a concern, so the Board has choices as to whether or not to award the contract to Mt. Rose. Ms. Hales stated that if the contract is awarded to Mt. Rose, then a timeline for a protest would begin. If the Board doesn't award the contract, the timeline would not start.

Trustee Hyde asked if a protest were filed, would the project get finished.

Paul Eskeldson, Parsons, stated that the district intentionally bid this project early to give the contractor time to order the equipment. At this point progress is a week behind, next week it would be two weeks behind, so it is starting to cut into the flow of the schedule. Mr. Eskeldson stated that he thinks it is still possible to complete the project, but can't give a guarantee.

A representative from Mt. Rose stated that they indicated to Ms. Hales that Mt. Rose is in a position if they could move on the HVAC equipment as soon as possible, preferably this week, that they would be able to meet all time requirements of the contract. He further stated that Mr. Eskeldson opened and reviewed the bids and found that Mt. Rose was deemed the most responsive and responsible bidder. Mt. Rose was the lowest bidder and met all of the requirements of the bid documents, and by doing so, Mt. Rose feels that Mr. Eskeldson appropriately recommended that the contract be awarded to Mt. Rose.

Sean Bingham stated that regarding Mr. Ferguson's comment, the instructions to bidders indicated that pre-bid was mandatory for prime contractors and mechanical sub-contractors, and that Mt. Rose would be both of those, and J.W. McCalenahan would be a piping sub-contractor.

Dalton Lowery D & D Plumbing Incorporated, stated that he is a piping subcontractor that was listed by Ferguson Construction on the project and had an employee walk the job, and in due fairness, he suggested the Board award the job to Mt. Rose and Ferguson can protest on a technicality.

Mr. Eskeldson stated that there is a clear delineation between mechanical and plumbing contractors in bid documents. There are mechanical sheets that the HVAC contractor works off of and plumbing sheets that the plumber works off of, and there are plumbing and mechanical specs. Mr. Eskeldson's intent was that the mechanical contractor was for the HVAC work since the majority of the work was theirs, and the plumbing was incidental to the mechanical work, but not required. That was his intent.

Ms. Hales stated that the agenda item is discussion and possible action to approve an award to Mt. Rose Heating and Air Condition. We have heard there could be a possible protest. This agenda item is not broad enough to discuss that. The safest action would be to approve this contract, and then the pathway is set out in NRS for the protest. If there is a protest it would be placed on a future agenda.

Trustee Hyde made a motion ***to award the HVAC contract to Mt. Rose Heating and Air Conditioning for replacement of HVAC at Churchill County High School, in the amount of \$1,360,000.*** Trustee Schank seconded the motion. The motion passed unanimously.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Trustee Hendrix made a motion, seconded by Trustee Hyde, to adjourn the meeting at approximately 7:00 p.m. The motion passed unanimously.

Carmen, Schank, Clerk of the Board

Prepared by Debra Shyne